

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Point Arena Water Works, Inc. for an order authorizing a rate increase in rates subject to refund producing additional annual revenues of \$70,137 or 56.9% for the test year 2002.

Application 02-11-057
(Filed November 25, 2002)

**ASSIGNED COMMISSIONER'S RULING
DETERMINING THE SCOPE, SCHEDULE,
AND NEED FOR HEARING IN THIS PROCEEDING**

This ruling determines the scope, schedule, and need for hearing in accordance with Rules 6(a) and 6.3 of the Commission's Rules of Practice and Procedure (Rules).¹

Background

In Resolution W-4356, October 24, 2002, the Commission granted the Point Arena Water Works (PAWW) a \$70,137 or 56.9% rate increase, subject to refund. About a year earlier, the Commission had also granted PAWW a \$47,677 or 62.3% rate increase, also subject to refund, based on a finding that such an increase was necessary to provide sufficient funds to meet PAWW's cash operating expenses with no depreciation or rate of return on rate base. The Commission noted that PAWW's last rate case was in 1991, and that PAWW

¹ Rules 6(a) and 6.3 require the assigned Commissioner to determine the scope and schedule of a proceeding.

operated at a loss of \$56,687 in 2000. As part of its review leading up to Res. W-4356, the staff conducted two public meetings in Point Arena and prepared an extensive staff report with accompanying audit of the utility's 2000 books of account.

The City of Point Arena (City) objected to the rate increases requested by PAWW and disagreed with staff's review. At the staff's recommendation, the Commission converted this advice letter rate case to a formal proceeding in Resolution W-4356.

PAWW, staff, and the City also differed regarding the proper ratemaking treatment of an income tax refund to PAWW from the early 1990's. The staff auditor concluded from PAWW's records, that (1) the tax refund had been obtained by PAWW at its own expense, and (2) the money had been used to meet operation and maintenance expenses that utility revenue failed to cover. Accordingly, the auditor recommended the tax refund not be used to lower prospective rates. The City disagreed. In Res. W-4356, the Commission included this issue in the formal proceeding.

On March 20, 2003, the assigned Administrative Law Judge (ALJ) convened a prehearing conference (PHC). The tax refund was among the matters discussed at the PHC, and the ALJ set a briefing schedule regarding the refund. The ALJ also set a procedural schedule for the remainder of this proceeding. For reasons set out below, that schedule will be set aside and a revised schedule adopted.

Need for Evidentiary Hearings

Issues of material facts remain in dispute between the parties such that evidentiary hearings will be necessary.

Scope of the Proceeding

The overall scope of this proceeding shall be to determine whether PAWW has met its burden of proving that the proposed rate increases are just and reasonable. As noted above, the rate increase proposals at issue here have been through an extensive informal review process with our staff, including an audit and a staff report. PAWW and our staff indicated at the PHC that they would rely extensively on these previously prepared analyses to make the required showing.

As set out in Res. W-4356, the tax refund issue will also be addressed in this proceeding. The tax refund has great significance for revenue requirement, with the potential of completely offsetting current rate base. Consequently, resolution of this issue is key to the scope of the subsequent portions of this proceeding. The parties have filed extensive opening and reply briefs, with accompanying documentation. A Draft Decision is being prepared on this issue. In accordance with Rule 77.7, the Draft Decision will be subject to review and comment by the parties prior to Commission consideration. Such a process may take several weeks, which has significant implications for the procedural schedule.

Procedural Schedule

Given the time expected to be required for the above-described Draft Decision and the significance of the issue to be resolved, the schedule set by the ALJ at the PHC is no longer feasible. Therefore, I will suspend the previously adopted schedule. A revised schedule will be set at a PHC to be held after the Commission acts on the Draft Decision.

Principal Hearing Officer

The Assigned ALJ, Maribeth A. Bushey, will act as the principal hearing officer in this proceeding.

Ex Parte Communications

This matter is designated as “ratesetting” as defined in Rule 5(c). Therefore, all ex parte communications must comply with Rule 7(c) and 7.1.

IT IS HEREBY RULED that:

1. Evidentiary hearings are needed.
2. The scope of this proceeding is stated above.
3. The schedule for the remainder of this proceeding shall be set at a subsequent prehearing conference.
4. Maribeth A. Bushey shall be the principal hearing officer in this proceeding.

Dated May 30, 2003, at San Francisco, California.

/s/ CARL WOOD
Carl Wood
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling Determining The Scope, Schedule, and Need for Hearing in This Proceeding on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated May 30, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.